

Kansas City Lawsuit
Special PR No. K9-62
Thursday, June 28, 1962

Confidential for Members

Ross vs. Philip Morris, Inc.

On Thursday morning Mrs. John Ross, wife of the plaintiff, was called to the stand. She testified that her husband was steady of habits, a good father, and kept no alcohol in the house. He had always smoked Philip Morris cigarettes, she said, and studied and believed Philip Morris advertising. His operation, she said, had changed their way of life.

Plaintiff's counsel Field then read selected questions and answers from interrogatories directed to the defendant. These were to bring out that Philip Morris had not investigated the tar and nicotine content of its cigarettes during the period covered by the complaint, nor issued any warning of possible health hazards to the public.

Field next sought to introduce into the record quotations from medical books and articles. The jury was excused while defense counsel Hardy contested this. Judge Gibson permitted Field to read to the jury passages from six articles and six books, the latter including four editions of James Ewing's "Neoplastic Disease." Other authors cited included McNally, Meyers, Ochsner et al. (twice) and Jackson and Jackson (three times). The dates of the material ran from 1919 to 1945.

The passages included expressions of opinion that smoking caused cancer of the larynx and lung. Defense counsel Hardy read additional passages from some of these same works, suggesting other causes such as alcohol and syphilis. Judge Gibson cautioned the jury that the material in the excerpts was to be considered only on the question of notice to the defendant and did not constitute substantive evidence.

Plaintiff's counsel made an offer of proof of excerpts from the record of a Federal Trade Commission proceeding against Philip Morris, relating to its advertising in the late 1930's. Judge Gibson ruled this material inadmissible.

Court was recessed until Monday morning, when the defense will open its case.

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(Note: In report No. K7-62, paragraph five, for "that had been ready by Field" please read "that had not been read by Field.")

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